

**FINAL REPORT
OF THE
INTERIM STUDY COMMITTEE ON
DIALYSIS COVERAGE**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2008

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Bernadette Bartlett
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. STATUTORY DIRECTIVE

During the 2008 session of the Indiana General Assembly, HEA 1284-2008 was enacted. HEA 1284-2008 established the Committee to study issues related to coverage of dialysis treatment under a policy of accident and sickness insurance and a health maintenance organization contract, including:

- (a) requirements, as a condition of coverage or reimbursement, for patients to obtain treatment from particular dialysis treatment providers;
- (b) costs related to dialysis treatment;
- (c) availability, including changes in availability since 2003, of dialysis treatment throughout Indiana;
- (d) payment rates, including changes in payment rates since 2003, for dialysis treatment throughout Indiana;
- (e) consideration of the items described in (a) through (d) as affected by a dialysis treatment provider's participation in provider networks used by accident and sickness insurers and health maintenance organizations; and
- (f) additional issues related to coverage of dialysis treatment, as determined by the Committee.

HEA 1284-2008 directed the Committee to submit a final report to the Legislative Council before November 1, 2008.

II. INTRODUCTION AND REASONS FOR STUDY

Prior to 2008, Indiana law did not specifically regulate coverage for dialysis treatment. However, HEA 1284-2008 established provisions prohibiting an insurer or a health maintenance organization from requiring a patient to travel more than certain distances for dialysis treatment as a condition of coverage or reimbursement.

III. SUMMARY OF WORK PROGRAM

The Committee met five times during the 2008 interim.

First and Second Meetings

The first meeting of the Committee was held on August 6, 2008. The second meeting was held on August 20, 2008. During these meetings, the Committee considered testimony concerning the following:

- (a) Background information concerning end stage renal disease (ESRD) and ESRD treatment.
- (b) Payment for dialysis treatment.
- (c) Care and treatment of hemodialysis patients.

Third Meeting

The third meeting of the Committee was held on September 3, 2008. The Committee received information previously requested from those testifying and considered testimony from additional interested parties concerning dialysis treatment.

Fourth Meeting

The fourth meeting of the Committee was held on October 1, 2008. The Committee considered and made recommendations concerning proposed legislation and the final report of the Committee.

Fifth Meeting

The fifth meeting of the Committee was held on October 13, 2008. The Committee considered the following:

- (a) Proposed legislation.
- (b) The final report of the Committee.

IV. SUMMARY OF TESTIMONY

The Committee heard testimony from representatives of the following groups:

- (a) Division of Nephrology, Indiana University Medical Center.
- (b) Davita.
- (c) Nephrology, Inc.
- (d) ESRD patients and family members of ESRD patients.
- (e) Fresenius.
- (f) Anthem.
- (g) United Healthcare.
- (h) America's Health Insurance Plans.
- (i) American Diabetes Association.
- (j) Other interested parties.

Names of individual representatives may be found at the end of this report.

Background Information Concerning ESRD and ESRD Treatment

Information was presented concerning ESRD, considerations made in determining treatment methods, and the process of dialysis treatment, including peritoneal dialysis and hemodialysis provided at dialysis facilities and in patient homes.

Payment for Dialysis Treatment

Testimony was provided relating to:

- (a) federal law regulating ESRD treatment coverage;
- (b) reimbursement rates for dialysis treatment under private insurance, Medicare, and Medicaid;
- (c) cost shifting to private insurance and private pay patients;
- (d) the cost of dialysis treatment;
- (e) recent changes in private insurance conditions of coverage and reimbursement rates for dialysis treatment;
- (f) private insurer requirements that covered individuals obtain treatment from dialysis facilities that are in the insurer's network rather than continuing treatment at an out of network dialysis facility;
- (g) increasing difficulty of dialysis patients in understanding private insurer conditions of coverage and obtaining private insurance payment for hemodialysis;
- (h) problems related to private insurer payment practices and dialysis patients' participation in government assistance programs;
- (i) private insurer negotiations with dialysis facilities for network participation; and
- (j) direct reimbursement for out of network dialysis treatment.

Care and Treatment of Hemodialysis Patients

Testimony was provided concerning:

- (a) the importance of:
 - (1) availability of network dialysis facilities and out of network dialysis facilities in Indiana;
 - (2) building a trusting relationship between the hemodialysis patient and dialysis facility personnel;
 - (3) close proximity of dialysis facilities to patient homes; and
 - (4) honoring a patient's choice of dialysis facility;
- (b) the effects of the factors described in (a) on a hemodialysis patient's physical, mental, and emotional condition; and
- (c) an anticipated future increased need for dialysis facilities in Indiana.

For greater detail concerning the proceedings of the Committee, minutes of the meetings may be found at <http://www.in.gov/legislative/interim>

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following findings of fact:

Background Information Concerning ESRD and ESRD Treatment

The Committee finds the following:

- (a) Dialysis is a life sustaining treatment that removes waste, salts, and fluids from the body and is required when an individual's kidneys are not capable of performing this function.
- (b) Dialysis is generally necessary three times per week and for an average of three hours per treatment. The recovery time varies, but it generally takes one hour following dialysis for the patient's condition to stabilize. Most patients are not allowed to drive themselves home after dialysis.
- (c) There are close to 120 dialysis facilities in Indiana, which currently treat approximately 6,400 patients.
- (d) Approximately 150 patients in Indiana receive home hemodialysis with equipment and professional oversight in the patient's home. Home hemodialysis requires the support of capable family or friends to be successful.
- (e) Two for-profit, national dialysis facility providers serve approximately 70% of patients receiving dialysis in dialysis facilities in Indiana.
- (f) A significant amount of consolidation of dialysis facility providers in Indiana and nationally has occurred. Many hospitals no longer offer dialysis within hospital facilities.

Payment for Dialysis Treatment

The Committee finds the following:

- (a) Dialysis is quite expensive, with a significant range in price based on the type of dialysis provided and the payment source. Reimbursement for hemodialysis is generally as follows:
 - (1) Home hemodialysis - average of \$80,000 per year.
 - (2) Hemodialysis in a dialysis facility - range is an average of \$240 per treatment under Medicare to thousands of dollars per treatment under other payment sources.
- (b) Private insurers in Indiana generally use provider networks through which dialysis providers contract with private insurers to make dialysis treatment available to patients at a reduced rate. Patients who choose to receive dialysis treatment from out of network dialysis providers, which have no contract with the private insurer, are generally liable for an additional 20% of the allowable charge.
- (c) Since out of network dialysis providers are not under contract with the private insurer, payment for dialysis treatment is made directly to the patient and not to the out of network dialysis provider.
- (d) The low Medicare reimbursement rate for dialysis treatment is a significant contributing factor in the pricing pressure present in the commercial dialysis market.
- (e) "Any willing provider" provisions of Indiana law (IC 27-8-11-3) apply to dialysis providers.

Care and Treatment of Hemodialysis Patients

The Committee finds the following:

- (a) Proximity of dialysis treatment to the patient's home is a quality of life and quality of treatment issue due to the frequency of treatment, amount of time required for treatment, patient condition, and patient treatment decisions based on required travel time.
- (b) As a result of the frequency and duration of dialysis treatment and the personal involvement of dialysis facility staff, a close relationship generally develops between patients and staff.
- (c) Indiana citizens are best served when there is a competitive market for dialysis treatment services and an ample number of high quality dialysis providers.

The Committee recommends PD 3291, as amended to require: (1) assignment of benefits upon request of the patient; (2) arbitration for contract disputes between dialysis facilities and private insurers; (3) a ban on balance billing; and (4) parity of dialysis benefits with other medical or surgical benefits; for introduction during the 2009 session of the General Assembly.

WITNESSLIST

Gloria Bard, hemodialysis patient
Matt Bassett, Davita
Anne Doran, America's Health Insurance Plans
Anthony Gabriel, M.D., Davita
Francine Haddad, American Diabetes Association
Angela Hoover, United Healthcare
Michael Kraus, M.D., Division of Nephrology, Indiana University School of Medicine
Rafael Lao, M.D., Davita
Barb Melo, R.N., Davita
Keith Mentz, Nephrology, Inc.
Danielle Peters, granddaughter of hemodialysis patient
Eric Schmitz, Anthem
Dan Seitz, Indiana Association of Health Plans
Rick Warthan, hemodialysis patient
Matt Whetstone, Fresenius
Kim Wilder, family member of hemodialysis patient
Robin Wildman, M.S.W., Fresenius
John Willey, Anthem
Belinda Wood, hemodialysis patient